

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD WAYNE EDMOND,
TDCJ #579280,
Plaintiff,

v.

BRAD LIVINGSTON, *et al.*,
Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-05-2756

ORDER OF DISMISSAL

Plaintiff Ronald Wayne Edmond is an inmate incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division (collectively, “TDCJ”). Edmond filed this civil rights complaint *pro se* and he has not paid the filing fee. Because Edmond is not entitled to proceed *in forma pauperis*, this case will be **dismissed** for reasons set forth briefly below.

Under 28 U.S.C. § 1915(g), a prisoner is not allowed to bring a civil action *in forma pauperis* in federal court if, while incarcerated, three or more of his civil actions or appeals have been dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g); *Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996). An exception to the impediment imposed by § 1915(g) applies only where the pleadings show that the inmate is in imminent danger of serious physical injury. *Banos v. O’Guin*, 144 F.3d 883, 884 (5th Cir. 1998).

The plaintiff’s litigation history reflects that he clearly meets the criteria of 28

U.S.C. § 1915(g). The national prisoner litigation index reflects that, prior to initiating this case, Edmond has filed at least sixteen other cases in federal court while incarcerated. Of these, at least six civil actions and appeals have been dismissed as frivolous.¹ Several other actions filed by Edmond have been dismissed as barred under 28 U.S.C. § 1915(g) because of his history for filing frivolous lawsuits.² Edmond neglects to mention any of these dismissals in spite of instructions in the complaint form directing him to supply information about his other lawsuits. (Docket Entry No. 1, ¶ I).

The pleadings in this case do not indicate that Edmond fits within the exception to § 1915(g). The complaint filed by Edmond contains vague allegations concerning TDCJ classification policies. Edmond also makes conclusory claims that his life is in danger because he has received medical care that he deems inadequate. From the pleadings and the attached exhibits, it does not appear that Edmond is being denied medical care. Instead, it appears that he disagrees with the level of care that he has received. The pleadings in

¹ See *Edmond v. Dallas County Detention Sheriff's Dep't*, Civil Action No. 3:95-446 (N.D. Tex. March 4, 1994); *Edmond v. Dallas County Detention Sheriff's Dep't*, Civil Action No. 3:95-0502 (N.D. Tex. April 17, 1995); *Edmond v. Tarrant County Jail*, Civil Action No. 3:96-0267 (N.D. Tex. June 24, 1996); *Edmond v. Texas Dep't of Corrections*, Appeal No. 97-10819 (5th Cir. July 21, 2000); *Edmond v. Dallas County Jail*, Appeal No. 97-11202 (5th Cir. Nov. 4, 1998); and *Edmond v. Texas Dep't of Corrections*, Appeal No. 97-11170 (5th Cir. Nov. 4, 1998).

² *Edmond v. Texas Board of Pardons and Paroles, et al.*, Civil Action No. 4:96-2659 (S.D. Tex. Dec. 9, 1997); *Edmond v. TDCJ Health Servs.*, Civil Action No. 4:02-700 (S.D. Tex. April 18, 2002); *Edmond v. Johnson*, Civil Action No. 4:02-1851 (S.D. Tex. May 30, 2002); *Edmond v. Johnson*, Civil Action No. 4:02-2692 (S.D. Tex. July 25, 2002); *Edmond v. TDCJ*, Civil Action No. H-04-2413 (S.D. Tex. Aug. 30, 2004).

this case do not show that Edmond is under imminent danger of serious physical injury. Therefore, based on Edmond's record of filing frivolous suits, the Court concludes that summary dismissal under § 1915(g) is warranted.

Accordingly, the Court **ORDERS** as follows:

1. This cause of action is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915(g).
2. If Edmond pays the full amount of the filing fee (\$250) within thirty days of the date of this order, then he may seek reinstatement of this case.

The Clerk will provide copies of this order to the parties, to the TDCJ - Office of the General Counsel, P.O. Box 13084, Capitol Station, Austin, TX 78711, Fax 512-936-2159; and to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas, 75702, Attention: Betty Parker.

SIGNED at Houston, Texas, on the 16th day of August, 2005.


Nancy F. Atlas
United States District Judge